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17 **UNITED STATES DISTRICT COURT**
18 **CENTRAL DISTRICT OF CALIFORNIA**

19 U.S. EQUAL EMPLOYMENT
20 OPPORTUNITY COMMISSION,

21 Plaintiff,

22 vs.

23 LOWE'S COMPANIES, INC.,
24 LOWE'S HOME CENTERS, LLC.,

25 Defendants.

Case No.:

COMPLAINT—ADA

- **Disability Discrimination
(Discharge)**
- **Denial of Reasonable
Accommodation**

JURY TRIAL DEMAND

NATURE OF THE ACTION

26 This is an action under the Americans with Disabilities Act of 1990
27 (“ADA”), as amended by the ADA Amendment Act (“ADAAA”) of 2008, to
28 correct unlawful employment practices on the basis of disability and to provide

1 appropriate relief to Leslie Tanimoto, Gary White, David Shaw (hereafter
 2 “Charging Parties”), and other individuals who were adversely affected by such
 3 practices. Plaintiff United States Equal Employment Opportunity Commission
 4 (“Plaintiff” or “Commission”) alleges that Defendants Lowe’s Companies Inc. and
 5 Lowe’s Home Centers, LLC. (collectively “Defendants” or “Lowe’s”) unlawfully
 6 discriminating against a class of individuals due to their actual or perceived
 7 disability. Plaintiff further alleges Defendant discriminated against a class of
 8 individuals who were associated with those with disabilities.

9 JURISDICTION AND VENUE

10 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451,
 11 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to
 12 Section 107(a) of the ADA and Section 102 of the Civil Rights Act of 1991, 42
 13 U.S.C. § 1981a, 42 U.S.C. § 12117(a) (incorporating Sections 706(f)(1) and (3) of
 14 Title VII of the Civil Rights Act of 1964 (“Title VII”), 42 U.S.C. §§ 2000e-5(f)(1)
 15 and (3)).

16 2. The employment practices alleged to be unlawful were committed
 17 within the jurisdiction of the United States District Court for the Central District of
 18 California.

19 PARTIES

20 3. Plaintiff, the Equal Employment Opportunity Commission (the
 21 “Commission”) is an agency of the United States of America, charged with the
 22 administration, interpretation and enforcement of the ADA, and is expressly
 23 authorized to bring this action by Section 107(a) of the ADA.

24 4. At all relevant times, Defendants Lowe’s Companies Inc. and its
 25 subsidiary Lowe’s Home Centers, LLC (successor in interest to Lowe’s Home
 26 Centers Inc. and Lowe’s HIW, Inc.) have continuously been doing business within
 27 the jurisdiction of the United States District Court for the Central District of
 28 California, the state of California, and locations throughout the United States, and

1 have continuously had at least 15 employees.

2 5. At all relevant times, Defendants Lowe's Companies Inc. and its
3 subsidiary Lowe's Home Centers, LLC (successor in interest to Lowe's Home
4 Centers Inc. and Lowe's HIW, Inc.) were employers engaged in an industry
5 affecting commerce under Section 101(5) of the ADA, 42 U.S.C. § 12111(7),
6 which incorporates by reference Sections 701 (g) and (h) of Title VII, 42 U.S.C. §§
7 2000e(g) and (h).

8 6. All of the acts and failures to act alleged herein were duly performed
9 by and attributable to all Defendants, each acting as a successor, agent, alter ego,
10 employee, indirect employer, joint employer, integrated enterprise and/or or under
11 the direction and control of the others, except as specifically alleged otherwise.
12 Said acts and failures to act were within the scope of such agency and/or
13 employment, and each Defendant participated in, approved and/or ratified the
14 unlawful acts and omissions by the other Defendants complained of herein.
15 Whenever and wherever reference is made in this Complaint to any act by a
16 Defendant, such allegations and reference shall also be deemed to mean the acts
17 and failures to act of each Defendant acting individually, jointly, and/or severally.

18 STATEMENT OF CLAIMS

19 7. More than thirty days prior to the institution of this lawsuit, the
20 Charging Parties filed charges of discrimination with Plaintiff alleging violations
21 of ADA by Defendants.

22 8. Prior to instituting this lawsuit, Plaintiff attempted to eliminate the
23 unlawful employment practices alleged herein and to effect voluntary compliance
24 with the ADA through informal methods of conciliation, conference, and
25 persuasion within the meaning of Section 706(b) of Title VII, 42 U.S.C. Section
26 2000e-5(b).

27 9. All conditions precedent to the institution of this lawsuit have been
28 fulfilled.

1 10. Since at least 2000, Defendants have engaged in unlawful
2 employment practices in violations of Section 102 (a) and (b) of ADA, 42 U.S.C. §
3 12112 (a) and (b). Specifically, Defendants unlawfully discharged the Charging
4 Parties and other similarly situated employees because of their actual or perceived
5 disabilities. Further, Defendant unlawfully discharged a class of employees for
6 their association with individuals with disabilities.

7 11. As a result the Charging Parties and similarly aggrieved individuals
8 suffered emotional distress.

9 **PRAYER FOR RELIEF**

10 Wherefore, the Commission respectfully requests that this Court:

11 A. Grant a permanent injunction enjoining Defendants, their officers,
12 successors, assigns, and all persons in active concert or participation with each of
13 them, from engaging in any employment practices which discriminate on the basis
14 of disability.

15 B. Order Defendants to institute and carry out policies, practices, and
16 programs to ensure that they would not engage in unlawful employment practices
17 in violation of § 102(a) and (b), 42 U.S.C. § 12112(a) and (b).

18 C. Order Defendants to make whole Charging Parties and similarly
19 aggrieved individuals by providing appropriate back pay with prejudgment
20 interest, in amounts to be determined at trial, and other affirmative relief necessary
21 to eradicate the effects of its unlawful employment practices, including but not
22 limited to rightful place reinstatement or front pay.

23 D. Order Defendants to make whole Charging Parties and similarly
24 aggrieved individuals whole by providing compensation for past and future
25 pecuniary losses, including but not limited to out-of-pocket expenses suffered by
26 him which resulted from the unlawful employment practices described above in
27 the amounts to be determined at trial.

1 E. Order Defendants to make whole Charging Parties and similarly
2 aggrieved individuals whole by providing compensation for non-pecuniary losses
3 resulting from the unlawful employment practices described above in amounts to
4 be determined at trial. The non-pecuniary losses include emotional pain,
5 suffering, inconvenience, mental anguish, humiliation and loss of enjoyment of
6 life, in amounts to be determined at trial.

7 F. Award the Commission its costs of this action.

8 G. Grant such further relief as the Court deems necessary and proper in
9 the public interest.

10 **JURY TRIAL DEMAND**

11 The Commission requests a jury trial on all questions of fact raised by its
12 Complaint.

13
14 Dated: May 3, 2016

Respectfully Submitted

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